IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 223 OF 2001

BETWEEN

Rambha Bai W/o Vinod Chandra, aged 38 years, Sarpanch of Gram Panchayat Rajga, Tahsil Sakti, District Janjgir Champa.

PETITIONER

AND

1. Smt. Dhankunwar W/o Reshamlal aged 35 years, by caste Aghariya, resident of Village Rajga, Tahsil Sakti, District Janjgir Champa.

2. Nohar Bai W/o Beasant Sahu,

3. Laxmin Bai W/o Premlal Sahu.

Sl.no. 2 and 3 resident of Village Rajga, Tahsil Sakti, District Janjgir Champa.

4. Presiding Officer Booth No.34.

5. Presiding Officer Booth No.35

6. Presiding Officer Booth No.36

All through the Returning Officer, Panchayat Chunav Vikas Khand, Tahsil Sakti, District Janjgir Champa.

7. Returning Officer/Tahsildar Sakti, Tahsil Sakti, District Janjgir Champa.

8. Sub Divisional Officer (R) Sakti, District Janjgir Champa.

9. State of Chhattisgarh, through the Secretary Panchayat, Mantralay, D.K.Building, Raipur.

10. State of Madhya Pradesh, through the Secretary Panchayat, Vallabh Bhawan, Bhopal.

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

1. Particulars of the petitioner :

As stated in the Cause Title above.

2. Particulars of the respondents :

As stated in the cause title above.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P.No. 223/2001
मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
21.3.2001	Petitioner by Shri Awadh Tripathi, Advocate. Respondent no.1 by Shri Jayaswal, Advocate. State by Dr. N.K.Shukla, Dy. Advocate General. Heard. The main grievance of the writ petitioner is as regards re-count of the ballot papers by the Election Tribunal. It is submitted by Mr.Tripathi that since the respondent no.1 has not submitted any complaint to the Returning Officer in regard to improper reception of certain ballot papers in favour of the petitioner no such recount is possible. Mr. Tripathi submits that the ~~writ~~ Election petition was filed before the Election Tribunal by the respondent no.1 challenging the Election of the petitioner. It is contended that in the election petition it was clearly averred that certain ballot pepers have been improperly received and counted in favour of the writ petitioner. The writ petitioner contested the election petition. The issues were framed, evidence were adduced and the parties were finally heard. At this stage the Election Tribunal was of the view that it would be fair to re-count the ballot papers in view of the averments made in the pleadings and also in the light of arguments advanced on behalf of the	

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parties. Against the order of recount the writ petitioner has approached this Court. Notices were issued on 20.2.2001 and this Court passed the following order:

> "As regards interim prayer, I direct that if not already counted, ballot papers which are directed to have been brought today shall not be counted until further orders."

Return has been filed. It has been stated on behalf of the respondent no.1 that recount has been made before the order of this Court was communicated to the Election Tribunal. In the said recount as many as 13 votes were found to be invalid in respect of the writ petitioner. In view of this though the result has not been officially declared the writ petitioner has obviously lost the election.

All the ballot papers concerning the writ petitioner and the respondent no.1 have been brought before this Court in sealed box. The rejected ballot papers have also been opened and seen by three members of the Bar in presence of the parties at the request of this Court. ~~At this stage,~~ the unanimous ~~normal~~ view of three lawyers is that invalid ballot papers were rightly rejected at the re-count by the Election Tribunal.

It appears that any other dispute cannot be raised before this Court and as much as the disputed facts are gone into only by the competent authority.

CRPRJ—FS/311—1/2001—50,000.

KI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(76)

आदेश पत्रक

W.P.No. 223/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(Contd. 21.3.2001)

As far as this writ petition is concerned, since the ballot papers have already been counted before the interim order was communicated, nothing now remains to this Court to determine. At the same time whoever wins election should win on the basis of the ~~backlook~~ valid votes. It is not for this Court to say who wins the election. Let it be determined in accordance with law ~~with~~ the election petition.

This petition is disposed of with the above observations.

Needless to say that the petitioner is at liberty to approach this Court, if aggrieved by the order of election Tribunal.

The ballot papers which have been brought be taken back by the authority which brought these papers.

Certified copy, today.

Sd/-
Chief Justice

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